

9632-093-128

ENT COOPERATION TREATY

Written Opinion
9-17-04
(58)

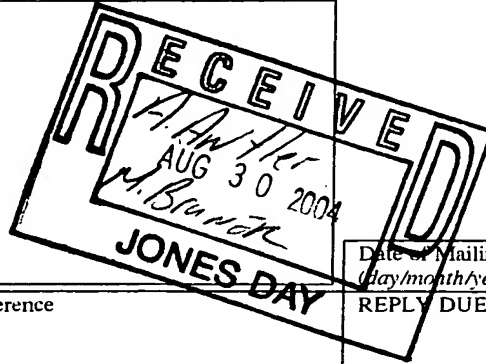
From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:
ADRIANE M. ANTLER
JONES DAY LLP
222 EAST 41ST STREET
NEW YORK, NY 10017

PCT

WRITTEN OPINION

(PCT Rule 66)



27 AUG 2004

Applicant's or agent's file reference		Date of mailing (day/month/year)
9632-093-228		27 AUG 2004
Applicant's or agent's file reference	REPLY DUE	within 1 months/days from the above date of mailing
International application No.	International filing date (day/month/year)	Priority date (day/month/year)
PCT/US03/24209	31 July 2003 (31.07.2003)	31 July 2002 (31.07.2002)
International Patent Classification (IPC) or both national classification and IPC		
IPC(7): A61K 39/395; C07K 16/46, 16/30, 16/12, 5/06 and US Cl.: 424/131.1, 155.1, 178.1; 530/388.8, 391.1, 329, 330, 387.2, 388.4		
Applicant		
SEATTLE GENETICS, INC.		

1. This written opinion is the first (first, etc.) drawn by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☒ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2 (a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application
3. The applicant is hereby **invited to reply** to this opinion.

When? See the time limit indicated above. ~~The applicant may, before the expiration of that time limit, request this Authority to grant an extension. See rule 66.2(d).~~

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
For an informal communication with the examiner, see Rule 66.6

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 30 November 2004 (30.11.2004).

Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 872-9306	Authorized officer Edward C Ward <i>A. Roberts for</i> Telephone No. (571) 272-1600
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I. Basis of the opinion

1. With regard to the elements of the international application:*

- ☒ the international application as originally filed
- ☒ the description:
 - pages 1-227, as originally filed
 - pages NONE, filed with the demand
 - pages NONE, filed with the letter of
- ☒ the claims:
 - pages 228-278, as originally filed
 - pages NONE, as amended (together with any statement) under Article 19
 - pages NONE, filed with the demand
 - pages NONE, filed with the letter of
- ☒ the drawings:
 - pages 1-8, as originally filed
 - pages NONE, filed with the demand
 - pages NONE, filed with the letter of
- ☒ the sequence listing part of the description:
 - pages NONE, as originally filed
 - pages NONE, filed with the demand
 - pages NONE, filed with the letter of

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

- ☒ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☒ The amendments have resulted in the cancellation of:

- ☒ the description, pages none
- ☒ the claims, Nos. none
- ☒ the drawings, sheets/fig none

5. ☐ This opinion has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed."

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IV. Lack of unity of invention

1. In response to the invitation (Form PCT/IPEA/405) to restrict or pay additional fees the applicant has:

- ☐ restricted the claims.
- ☒ paid additional fees.
- ☐ paid additional fees under protest.
- ☐ neither restricted nor paid additional fees.

2. This Authority found that the requirement of unity of invention is not complied with for the following reasons and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees:

3. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this opinion:

- ☒ all parts.
- ☐ the parts relating to claims Nos. ____.

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V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. STATEMENT

Novelty (N)	Claims <u>NONE</u>	YES
	Claims <u>1-92</u>	NO
Inventive Step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-92</u>	NO
Industrial Applicability (IA)	Claims <u>1-92</u>	YES
	Claims <u>NONE</u>	NO

2. CITATIONS AND EXPLANATIONS

Claims 1-92 lack novelty under PCT Article 33(2) as being anticipated by Toki, et al. The instant claims embrace Auristatin E-antibody conjugates for treating tumors, and Auristatin E active ester derivatizing agents. Toki, et al, at the ACS meeting in Orlando, Florida disclosed Auristatin E -antibody conjugates for treating cancer, and Auristatin E active ester derivatizing agents. See abstract. Medi-147.

Claims 1-92 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.

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Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

TIME LIMIT:

The time limit set for response to a Written Opinion may not be extended. 37 CFR 1.484(d). Any response received after the expiration of the time limit set in the Written Opinion will not be considered in preparing the International Preliminary Examination Report.